

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ENCOMPASS INSURANCE COMPANY, as subrogee of JENNIFER and RICHARD ABDINOOR, } 2:11-CV-1541-PMP-LRL

ORDER

Plaintiffs,

VS.

U.S. HOME CORPORATION, a wholly owned subsidiary of LENNAR CORPORATION, a Delaware corporation; and SOUTHWEST HOMES, LTD, a Nevada Limited liability company,

Defendants.

On February 15, 2012, the Court conducted a hearing on the fully briefed Motion to Dismiss (Doc. #5) filed on behalf of Defendants U.S. Home Corporation and Lennar Corporation. Plaintiffs stated no opposition to Defendants' Motion to Dismiss as to Defendant Lennar whereupon the Court ordered Defendant Lennar Corporation dismissed from the case. The Court has now reviewed again the briefs of the Parties in light of the arguments presented at the hearing, and finds that the Motion to Dismiss (Doc. #5) should be granted as to Defendant U.S. Homes Corporation as well.

This conclusion is compelled by the State Court's finding in the original action that the failure of Plaintiff Encompass and its insureds to provide U.S. Home with a notice of constructional defect and to otherwise comply with N.R.S. 40.600,

1 *et seq.*, warranted dismissal of the State Court action. Although dismissal of the
2 State Court action was without prejudice, the underlying issue relating to
3 compliance with N.R.S. 40.600, *et seq.*, was unambiguous and this Court requires
4 that Defendants' instant Motion to Dismiss (Doc. #5) be granted.

5 **IT IS THEREFORE ORDERED** that Defendants' Motion to Dismiss
6 (Doc. #5) is **GRANTED**.

7 DATED: February 16, 2012.

Chip M. Orr

PHILIP M. PRO
United States District Judge